

Appl. No. 10/624,016
Atty. Docket No. AA536XC&
Amendment Dated 11/18/2005
Reply to Office Action of 8/25/2005
Customer No. 27752

REMARKS

Claim Status

Claims 1 - 10 are pending in the present application. No additional claims fee is believed to be due.

Rejection Under 35 U.S.C. §102(b) Over U.S. 3,101,714 (Penksa)

Claims 1, 2, 4, 5, 7, 8 and 10 are rejected under 35 U.S.C. §102(b) as being anticipated by Penksa '714.

With respect to the novelty of claims 1, 2, 4, 5, 7, 8 and 10: Applicants respectfully traverse the Examiner's rejection as Penksa fails to disclose or teach a catamenial tampon which comprises a withdrawal cord including a composite yarn which includes a continuous string, and a secondary absorbent member joined to a part of the continuous string, wherein the continuous string which has the secondary absorbent member joined thereto is woven according to a predetermined weaving manner after being provisionally twisted, thereby forming the attachment portion and the withdrawal portion.

Penksa teaches a device consisting of an elongated cylindrical body of absorbent material with an absorbent withdrawal cord upon which a plug or pad of absorbent material is slidably mounted. (Col 1, Lines 42-49) The cord has the appearance of smoking pipe cleaners, with an axial core of strands. Due to the nature of the construction of the cord, the individual bristles of the tufts extend substantially radially outward from the core, and provide an irregular external surface on the cord. As the plug or pad slides on the cord the bristles provide a frictional engagement with the plug or pad to a relatively high degree so that the body, after being slid to a given position on the cord tends to remain there. (Col 1, Lines 51-62) During normal flow times, the plug member may be removed from the cord. In times of heavier flow, the plug or pad may be slid upward on the cord, after insertion, to be held in place by the sphincter muscles of the vagina. (Col 1, Line 71 to Col 2, Line 8)

Appl. No. 10/624,016
Atty. Docket No. AA536XC&
Amendm't Dated 11/18/2005
Reply to Office Action of 8/25/2005
Customer No. 27752

Accordingly, the Applicants respectfully submit that claim 1 and its dependent claims 2, 4, 5, 7, 8 and 10 are novel over Penksa '714 and the rejection should be withdrawn.

Rejection Under 35 U.S.C. §102(e) Over U.S. 6,258,075 (Taylor et al)

Claims 1 and 3 are rejected under 35 U.S.C. §102(e) as being anticipated by Taylor et al '075.

With respect to the novelty of claims 1 and 3: Applicants respectfully traverse the Examiner's rejection as, "A claim is only anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987). The Examiner has not identified where in Taylor et al is found the teaching, "wherein the continuous string (48) which has the secondary absorbent member (60) joined thereto is woven according to a predetermined weaving manner after being provisionally twisted, thereby forming the attachment portion and the withdrawal portion." Therefore, Taylor et al does not teach or suggest a secondary absorbent member joined to a part of the continuous string, wherein the continuous string which has the secondary absorbent member joined thereto is woven according to a predetermined weaving manner after being provisionally twisted, thereby forming the attachment portion and the withdrawal portion.

Accordingly, the Applicants respectfully submit that claim 1 and its dependent claim 3 are novel over Taylor et al '075 and the rejection should be withdrawn.

Rejection Under 35 U.S.C. §102(a) Over WO 00/61052 A1 (Taylor et al)

Claims 1 and 3 are rejected under 35 U.S.C. §102(a) as being anticipated by WO 00/61052 A1.

Appl. No. 10/624,016
Atty. Docket No. AA536XC&
Amendment Dated 11/18/2005
Reply to Office Action of 8/25/2005
Customer No. 27752

With respect to the novelty of claims 1 and 3: Applicants respectfully traverse the Examiner's rejection. WO 00/61052 claims priority from 09/287,994 now US 6,206,867 and 09/309,467 now US 6,258,075 which is a continuation in part of application 09/287,994 now US 6,206,867. Therefore the novelty argument made in response to the rejection based on US 6,258,075 to Taylor et al as described previously is incorporated here, in its entirety, namely Taylor et al does not teach or suggest a secondary absorbent member joined to a part of the continuous string, wherein the continuous string which has the secondary absorbent member joined thereto is woven according to a predetermined weaving manner after being provisionally twisted, thereby forming the attachment portion and the withdrawal portion.

Accordingly, the Applicants respectfully submit that claim 1 and its dependent claim 3 are novel over WO 00/61052 and the rejection should be withdrawn.

Rejection Under 35 U.S.C. §102(f) Over WO 00/61052 A1 (Taylor et al)

Claims 1 and 3 are rejected under 35 U.S.C. §102(f) as it has been alleged that the Applicants did not invent the claimed subject matter.

With respect to the inventiveness of claims 1 and 3: Applicants respectfully traverse the Examiner's rejection. It is further respectfully submitted that WO 00/61052 Taylor et al does not teach or disclose a secondary absorbent member joined to a part of the continuous string, wherein the continuous string which has the secondary absorbent member joined thereto is woven according to a predetermined weaving manner after being provisionally twisted, thereby forming the attachment portion and the withdrawal portion. If WO 00/61052 does not teach or disclose all the elements of claims 1 and 3 of the present invention, then it could not have an earlier date of invention.

Accordingly, the Applicants respectfully submit that claim 1 and its dependent claim 3 are inventive over WO 00/61052 and the rejection should be withdrawn.

Appl. No. 10/624,016
Atty. Docket No. AA536XC&
Amendment Dated 11/18/2005
Reply to Office Action of 8/25/2005
Customer No. 27752

Rejection Under 35 U.S.C. §103(a) Over U.S. 3,101,714 (Penksa) in view of U.S.
4,237,804 (Hirayama)

Claim 6 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Penksa as applied to claims 1, 2, 4, 5, 7, 8 and 10, in view of Hirayama.

With respect to claim 6 and obviousness: As mentioned above Penksa fails to disclose, teach or suggest a catamenial tampon which comprises a withdrawal cord including a composite yarn which includes a continuous string, and a secondary absorbent member joined to a part of the continuous string. Penksa teaches a cylindrical absorbent body with a withdrawal cord upon which a plug or pad of absorbent material is slidably mounted. During normal flow times, the plug member may be removed from the cord. In times of heavier flow, the plug or pad may be slid upward on the cord, after insertion, to be held in place by the sphincter muscles of the vagina. (Col 1, Line 71 to Col 2, Line 8) There is no motivation or suggestion provided in Penksa that would motivate one of ordinary skill in the art to modify attachment of a secondary absorbent member and a continuous string so that they are joined, when its disclosed inventive tampon device uses an adjustable slideable plug or pad to respond to increased or decreased menstrual flow.

Further, there is no teaching or suggestion to provide a catamenial tampon comprising a continuous string which is woven according to a predetermined weaving manner after being provisionally twisted. Rather, Penksa teaches and suggests to one of ordinary skill in the art, a cord consisting of tufts of bristles, wherein the tufts of bristles are used to provide an irregular external surface along the length of the cord that will engage and hold a movable plug or pad.

Additionally, Hirayama is cited by the Examiner to produce the tampon device of Penksa by using its disclosed looper changeover device. Hirayama, does not disclose or teach the use of the looper changeover device for the production of tampons, and Penksa does not teach the use of stitching to attach a cord to the body of a tampon, but rather discloses a generic statement that the cord can be attached in any desired or suitable manner. (Col 1, Lines 44-45) Further, even in combination the Penksa and Hirayama references fail to disclose all the elements of claim 6 as noted above.

Appl. No. 10/624,016
Atty. Docket No. AA536XC&
Amendment Dated 11/18/2005
Reply to Office Action of 8/25/2005
Customer No. 27752

Accordingly, Applicants respectfully submit that claim 6 is non-obvious in view of Penksa and Hirayama.

Rejection Under 35 U.S.C. §103(a) Over U.S. 3,101,714 (Penksa) in view of U.S. 5,592,725 (Brinker)

Claim 9 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Penksa as applied to claims 1, 2, 4, 5, 7, 8 and 10, in view of Brinker.

With respect to claim 9 and obviousness: Please see the arguments presented above in regard to claim 6 and the cited Penksa reference, which are incorporated here in their entirety. Specifically, that there is no motivation or suggestion provided in Penksa that would motivate one of ordinary skill in the art to modify attachment of a secondary absorbent member and a continuous string so that they are joined, when its disclosed inventive tampon device uses an adjustable slideable plug or pad to respond to increased or decreased menstrual flow.

Further, there is no teaching or suggestion to provide a catamenial tampon comprising a continuous string, which is woven according to a predetermined weaving manner after being provisionally twisted. Rather, Penksa teaches and suggests to one of ordinary skill in the art, a cord consisting of tufts of bristles, wherein the tufts of bristles are used to provide an irregular external surface along the length of the cord that will engage and hold a movable plug or pad. Therefore, even in combination the Penksa and Brinker references fail to disclose all the elements of claim 9.

Accordingly, Applicants respectfully submit that claim 9 is non-obvious in view of Penksa and Brinker.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. §102 and 35 U.S.C. §103. Early and favorable action in the case is respectfully requested.

Appl. No. 10/624,016
Atty. Docket No. AA536XC&
Amendment Dated 11/18/2005
Reply to Office Action of 8/25/2005
Customer No. 27752

This response represents an earnest effort to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, and allowance of Claims 1-10 is respectfully requested.

Respectfully submitted,

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By 
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